



RICK CLAYBURGH  
TAX COMMISSIONER

# Property Tax Newsletter

November 2001

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### Timeliness For Abatements

North Dakota Century Code ch. 57-23 provides for administration of applications for abatement or refund of tax.

An Application For Abatement or Refund of Tax (application for abatement) must be filed with the County Auditor no later than November 1 of the year following the year in which the property tax becomes delinquent. This means November 1, 2001, was the deadline for filing an application for abatement regarding the 1999 property tax. There is no statutory authority to reduce or refund property taxes for 1999 or prior years. Applications for abatement regarding the 2000 property tax must be filed with the County Auditor no later than November 1, 2002. Applications to abate or refund the 2001 property taxes must be filed no later than November 1, 2003.

North Dakota Century Code § 57-23-06(2) contemplates expediency in processing applications for abatement. However, it does not require that the board of county commissioners act on the application at the originally scheduled meeting. In some circumstances, the board may require additional information. That could cause the application to be held over for the next month's meeting. The board of county commissioners needs to inject some common sense into the application process. If there is good cause to postpone or continue the matter until a future meeting, then the board should do so. If good cause to postpone or continue does not exist, the

board of county commissioners should establish and communicate to the applicant that it will not allow any more delays on the present application and set a deadline for the hearing. If the applicant is unable to attend, an attorney or representative may appear on the applicant's behalf. If the applicant or applicant's representative misses that deadline, then the applicant can apply for the next year. Local and county governing boards need to ensure there is sufficient written evidence of the rational of their decisions. ☛

### Payments In Lieu Of Taxes On Land Owned By Nonprofit Organizations For Conservation Purposes

The 2001 Legislature added a provision to N.D.C.C. § 10-06.1-10(2) that requires nonprofit organizations owning farmland or ranchland for conservation purposes to make payments in lieu of property taxes on the property, calculated in the same manner as if the property were subject to full assessment and levy of property taxes.

Some county auditors have asked how they will know if they have qualifying land. Land qualifying under this section has been the subject of a public hearing with the board of county commissioners, and the Governor has approved its acquisition by the nonprofit organization. The Office of State Tax Commissioner is aware of nonprofit organizations that own or are in process of acquiring qualifying acreage in the following counties:

**Nature Conservancy** – 18,000 ac.  
McLean County  
Oliver County  
Ransom County  
Sheridan County

**North Dakota Natural Resources Trust** – 1,433.44 ac.  
Dickey County      800 ac.  
Ramsey County      633.44 ac.

**American Foundation For Wildlife**  
Walsh County – 1,000 ac.

**Cass County Wildlife** – 5.36 ac.

**Stutsman County Wildlife Club** – 400 ac.

The auditor of each county having qualifying land should file the “Abstract of Land Valuations Subject to In Lieu Payments On Farmland or Ranchland Owned by Nonprofit Organizations for Conservation Purposes” with the State Tax Commissioner by June 30 each year. Because these payments are in lieu of taxes, do not include this information in the Abstract of Tax Lists. 🌱

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## Assessment Of Wind Turbine Electric Generators

North Dakota Century Code § 57-02-27.3, enacted by the 2001 Legislature, provides that a centrally assessed wind turbine electric generation unit with a nameplate generation capacity of 100 kilowatts or more, on which construction is completed before January 1, 2011, must be valued at three percent of assessed value to determine taxable valuation of the property. The State Board of Equalization will assess both real and personal property.

The Tax Commissioner asks that local officials advise the Property Tax Division if any wind turbine units of 100 kilowatts or more are erected in their jurisdictions. They will probably be owned by someone other than an electric utility company, and we want to be sure we are aware of them. The assessment date for centrally assessed property is January 1, so we need to know about any qualifying wind turbine units in place on that date.

Wind turbine units with a capacity of less than 100 kilowatts are subject to local assessment of their real property only. Generally, we consider the tower and base to be real property and the blades and other equipment at the top to be personal property. 🌱

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## Telecommunications Property

The Property Tax Division frequently receives questions about new telecommunications towers – whether they should be assessed locally and, if not, whether they will bring any additional tax revenue to the jurisdictions where they are located.

All property used in transmitting two-way telecommunications service for consideration, including land, is exempt from property taxation due to the in-lieu provisions of N.D.C.C. ch. 57-34. Someone other than a telecommunications company may own the property; the only test is the use of the property. If a property, e.g., a tower, is used both for two-way telecommunications and for something else, the portion used for something else is subject to local assessment. Other uses that subject telecommunications property to local assessment include, but are not

limited to, one-way paging service and two-way service operated by a government agency (a government agency is not subject to the telecommunications gross receipts tax). We suggest that you require the owners of any telecommunications property in your jurisdictions to provide evidence that the users of the property are paying the telecommunications gross receipts tax. You may also call the Property Tax Division to find out if specific companies have filed returns and/or paid the tax.

Every year each taxing district receives exactly the same amount of revenue from the telecommunications gross receipts tax that it received in 1999. There is a standing appropriation of \$8.4 million that is distributed to all taxing districts based on the 1998 distribution of the 1997 ad valorem tax on telecommunications property and the 1997 gross receipts tax on rural telephone companies. The addition or removal of telecommunications property makes no difference in the amount of gross receipts tax revenue a district receives. 🌱

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## Attorney General's Rulings

North Dakota Century Code § 57-02-10 authorizes the board of county commissioners to remove from the tax roll inundated lands on which the owner grants a permanent easement to any U.S. agency for constructing, maintaining and operating water or wildlife conservation projects. In a letter opinion, the Attorney General ruled that land in the Emergency Watershed Program may qualify for exemption according to N.D.C.C. § 57-02-10 if, on February 1, the following facts exist:

1. Subject land is inundated
2. Permanent easement has been granted under the EWP Program
3. Easement is for a water or wildlife conservation project
4. Construction of the water or wildlife conservation is completed

Attorney General's Opinion 2001-F-08 states that, based on N.D.C.C. § 11-10-29 enacted by the 2001 Legislature, a county officer or employee may not issue a refund of a tax or fee in an amount that is less than \$5. ●

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## Status Of Detailed Soils Survey

Maps showing the status of the detailed soils surveys in North Dakota are available at the N.R.C.S. website "[www.nd.nrcs.usda.gov/](http://www.nd.nrcs.usda.gov/)."

The publication status of the North Dakota soils survey is available at the above website and the extension "ndpubstatus.html." The status of digitizing is available at the same website using the extension "nddigstatus.htm." Additional soils information is available at the website. ●

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## Notification Of Taxpayer's Rights

Rights of North Dakota property owners are protected by statute. Assessment personnel can provide good customer service by informing taxpayers of their rights, particularly regarding appeal procedures.

When property owners contact the assessor or any of the governing boards regarding their assessment, they have a right to know what the

proper procedure is to appeal the assessment. Whether the assessor sends a notice of increase, or the property owner approaches the assessor or governing boards about the valuation, the North Dakota Taxpayer Bill of Rights is a helpful brochure that explains the appeal procedures available to taxpayers. A copy of the brochure should be included with the notice of increase in assessment and any notification of reassessment. It makes a statement that the assessor and governing body are fair and service-oriented toward taxpayers.

The Office of State Tax Commissioner has a supply of the brochure entitled "North Dakota Taxpayer Bill of Rights" and can provide a camera-ready copy from which to make copies. ●

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## Maximum Mill Levy Calculation For Park Districts

If auditors follow the maximum levy worksheet, park districts won't necessarily be limited by the 35-mill maximum general fund levy. In calculating the base year for the general fund, they need to include in all of the three prior years all the levies that are now included in the general fund. ●

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## Application For Classification As Inundated Agricultural Land

Property owners must apply annually for classification as inundated agricultural land, using form number 24720, developed by the Office of State Tax Commissioner. Clarification of two items is needed.

Question number 4 on the application requires listing of the county average revenue per acre for noncropland. That amount is not the county average value of noncropland as listed on the certification of county average values. The county average revenue is found on the data sheets provided by NDSU.

The third and fifth columns of the application contain the heading "Revenue Produced in \_\_\_\_\_ year." The amount of revenue produced in the most recent prior year must be the amount received in the most recent prior year. For example, revenue earned during 2001 may not be received until 2002. For purposes of application for classification as inundated agricultural land for 2002, only income received in 2001 is considered revenue produced in 2001 and listed in the third or fifth columns of the application. ●

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## Valuation Used To Calculate Mill Rates

County auditors use taxable valuation to determine mill rates for the various taxing districts. The amount used is the taxable valuation of real property remaining after deduction of homestead credit plus the amount of taxable valuation of centrally assessed property. The taxable valuation after homestead credit is reported on the Abstract of Assessments. ●

### Need Assistance?

Please direct property tax questions or concerns to:

Office of State Tax Commissioner  
Property Tax Division  
600 E. Boulevard Ave.  
Bismarck, ND 58505-0599  
Phone: (701)328-3127  
Toll free within state: 1-800-638-2901,  
option 5  
Fax: (701)328-3700  
E-mail: [lwedge@state.nd.us](mailto:lwedge@state.nd.us)  
Website: [www.ndtaxdepartment.com](http://www.ndtaxdepartment.com)